

## **Freedom of Information Act 2000 (Section 51)**

### **Information notice**

**Date:** 17 December 2021

**Public Authority:** Department for Transport  
**Address:** Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

### **Section 51**

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Under section 51 of the Freedom of Information Act 2000 (the "Act"), which is set out below, the Information Commissioner (the "Commissioner") has the power to serve a notice on a public authority requiring it to furnish her with any information she requires to enforce the requirements of the Act.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

she may serve the authority with a notice (in this Act referred to as "an information notice") requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

### **Application under section 50**

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1. The Commissioner has received an application under section 50, reference, for a decision whether a request for information made by the complainant to the Department for Transport ("DfT") on 17 March 2021, has been dealt with in accordance with the requirements of Part I of the Act.

## **Nature of complaint**

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2. The Commissioner wrote to the DfT on 6 October 2021 setting out the information he required in order to reach a decision.
3. On 3 November 2021, the DfT responded to the Commissioner to say that, having reconsidered the matter, whilst maintaining that the original exceptions would have applied at the point the request was refused, due to the passage of time, it was now willing to disclose most of the information. It still wished to withhold a small quantity of information which it said engaged legal professional privilege. It cited Regulation 12(5)(d) of the EIR in order to withhold this information.
4. The Commissioner asked the DfT to disclose the information it was happy to disclose, following which he would attempt to resolve the matter informally.
5. At the date of this notice, the DfT has failed to disclose any information to the complainant or provide a copy of the information it still wishes to withhold to the Commissioner. Nor has the DfT provided a timetable for disclosing the information that the Commissioner considers to be reasonable.

## **Information required**

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6. In view of the matters described above the Commissioner hereby gives notice that in the exercise of her powers under section 51 of the Act he requires that the DfT shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:
  - A copy of any information the DfT still wishes to withhold.
  - Full and final submissions explaining why any exceptions apply to the information the DfT still wishes to withhold and (if applicable) why the public interest favours maintaining any exceptions applied.

## **Failure to comply**

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7. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act, and may be dealt with as a contempt of court.

## Right of appeal

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8. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@Justice.gov.uk](mailto:grc@Justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

9. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

**Signed .....**

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**